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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 FIRST NATIONAL INSURANCE
12 COMPANY OF AMERICA,

13 Plaintiff,

14 v.

15 PERALTA COMMUNITY COLLEGE
16 DISTRICT,

17 Defendant.
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Case No.: 12-cv-5943 JSC

**ORDER RE: ORAL ARGUMENT (Dkt.
No. 5)**

19 Pending before the Court is Defendant's Motion to Dismiss pursuant to Federal Rule
20 of Civil Procedure 12(b)(7), and alternative Motion to Dismiss in part pursuant to Rule
21 12(b)(6) and Motion to Strike portions of the Complaint (Dkt. No. 5). Hearing on this matter
22 is set for January 31, 2013 at 9:00 a.m. At the hearing, the parties shall be prepared to
23 address the impact of *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 976 (9th Cir. 2010)
24 on Defendant's Motion to Strike Plaintiff's demand for attorneys' fees.

25 **IT IS SO ORDERED.**

26 Dated: January 28, 2013
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JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE

United States District Court
Northern District of California